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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/666,790

09/17/2003

Hisashi Tsukamoto

Q137-US8

9005

31815 7590 12/28/2007
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EXAMINER

LEE, CYNTHIA K

ART UNIT

PAPER NUMBER

1795

MAIL DATE

DELIVERY MODE

12/28/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/666,790	TSUKAMOTO ET AL.	
	Examiner	Art Unit	
	Cynthia Lee	1745	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 September 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 55 and 66-88 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 55, 66-71 and 85-88 is/are rejected.
- 7) ☒ Claim(s) 72-84 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Response to Pre Appeal Conference Request

This Office Action is responsive to the pre appeal conference request filed on 9/5/2007. Claims 55 and 66-88 are pending. Claims 72-84 are objected to. Applicant's arguments have been considered and are fully persuasive. Claims 55 and 66-71, and 85-88 are non-finally rejected for reasons stated herein below.

Election/Restrictions

The Examiner notes that the Restriction requirement dated 11/29/2006 has been withdrawn.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S.C. code not included in this action can be found in the prior Office Action issued on April 11, 2007.

Claims 55,66-71,85,87,88 are rejected under 35 U.S.C. 103(a) as being anticipated by Gartstein et al. (US 2002/0001745 A1) in view of MacLachlan (US 4638555).

With respect to claim 55, Gartstein et al. teach an electrical storage battery comprising an case (14) sealed by a first end cap (16) and a second end cap (22), wherein neither the case, the first end cap nor the second end cap has fill hole as shown in Figure 3. The battery further comprises an electrically conductive terminal pin (26) extending to the first end cap, which is electrically insulated from the case. The cathode (32) of the electrode assembly is in electrical communication with the pin, whereas the anode (34) of the electrode

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assembly is in electrical communication with second end cap via a conductive bottom plate (19) (flexible conductive tab). See paragraphs 55-59,62.

Gartstein et al. discloses an electrically conductive terminal but do not teach the electrically conductive terminal pin extending through the first end cap. MacLachlan teaches an electrically conductive terminal pin extending through battery lid (see 15 in fig. 1). It would have been obvious to one of ordinary skill in the art to extend the terminal pin through the end cap of the battery of Gartstein, as taught by MacLachlan, for the benefit of extracting the current of the battery directly from the current collector instead of through the positive terminal.

With respect to claims 66,68, Gartstein et al. the conductive bottom plate extends from a location adjacent to the case to a second location wherein the plate is electrically connected to the second end cap (22). See Figure 3.

With respect to claim 67, Gartstein et al. teach welds (contacts between the anode and the conductive bottom plate) connect the plate to the second end cap. See Figure 3.

With respect to claim 69, Gartstein et al. teach the second end cap is connected to the plate for a distance that is not longer than the radius shown in the second end cap. See Figure 3.

With respect to claims 70,71, Gartstein et al. teach the electrode assembly has a spirally wound jelly roll structure, which include at least one separator separating the electrodes. See Paragraph 57.

With respect to claim 85, Gartstein et al. teach at least one weld connects the cathode to the pin. See Figure 3.

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With respect to claim 87, Gartstein et al. teach the terminal pin is hermetically sealed to the insulting washer or seal (24), which insulates the first end cap. See Paragraph 55.

With respect to claim 88, Gartstein et al. teach the case is electrically conductive. See Paragraph 62.

Claim 86 is rejected under 35 U.S.C. 103(a) as being anticipated by Gartstein et al. (US 2002/0001745 A1) in view of MacLachlan (US 4638555) as applied to claim 55, further in view of Taylor (US 6090503).

Gartstein modified by MacLachlan teaches all the elements of claim 55. Gartstein modified by MacLachlan does not teach that the pin includes an alloy of PtIr. Taylor teaches that a battery terminal is made of PtIr (3:30). It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the pin of Gartstein modified by MacLachlan with PtIr, as taught by Taylor, because it has been held by the court that the selection of a known material based on its suitability for its intended use is *prima facie* obvious. Sinclair & Carroll Co. v. Interchemical Corp., 325 U.S. 327, 65 USPQ 297 (1945). See MPEP 2144.07.

Allowable Subject Matter

Claims 72-84 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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The following is a statement of reasons for the indication of allowable subject matter: Prior art does not disclose nor suggest the subject matter of claim 72: wherein the electrode assembly includes a mandrel mounted on the pin such that the electrodes are wound around the pin and the mandrel. Gartstein discloses that the electrodes are wound around a pin, but not a pin and a mandrel.

Double Patenting

Claims 55,66-88 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 43-45,67-86 of copending Application No. 10/665,687. Claims 55,66-88 are of the instant application is anticipated by copending application claims 43-45,67-86 in that claims 43-45,66-86 of the copending application contains all the limitations of claim of the instant application. Claims 55,67-88 are of the instant application therefore is not patently distinct from the copending claim and as such is unpatentable for obvious-type double patenting.

Applicant's argument with respect to the restriction requirement is moot because the Restriction requirement has been withdrawn.

Applicant's arguments that the application 10/665,687 dominates the instant application, it is unpersuasive because the application 10/665,687 anticipates the claims of the instant invention.

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Response to Arguments


Applicant's arguments filed 9/5/2007 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cynthia Lee whose telephone number is 571-272-8699. The examiner can normally be reached on Monday-Friday 8:30am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Susy Tsang-Foster can be reached on 571-272-1293. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


RAYMOND ALEJANDRO
PRIMARY EXAMINER